



Recommendation for Action

File #: 20-3192, **Agenda Item #:** 8.

10/29/2020

Posting Language

Authorize negotiation and execution of an amendment to the Exclusive Negotiating Agreement with Catellus Development Corporation, dba CDC Colony Park Holdings, L.P (Catellus) for additional reimbursement and additional predevelopment services related to the development of the Colony Park Master Development Agreement in an amount not to exceed \$400,000, for a total amount not to exceed \$700,000.

Lead Department

Economic Development Department.

Fiscal Note

Funding in the amount of \$400,000 is available in the FY 2020-2021 Economic Development Department's Operating Budget. Funding for the remaining years of agreement is contingent upon available funding in future budgets.

Prior Council Action:

August 22, 2019 - City approval of Item No. 20190822-022, authorizing reimbursement of certain costs as part of the exclusive negotiation agreement for planning, engineering, economic, and due diligence services related to the Colony Park Master Development Agreement, in an amount not to exceed \$300,000, contingent on certain factors.

(Notes: Approved on consent on an 11-0 vote.)

October 18, 2018 - Council approved Item No. 20181018-030, authorizing negotiation and execution of an Exclusive Negotiation Agreement (ENA) with Catellus Development Corporation for terms governing a Master Developer Agreement (MDA) for the development of Colony Park Sustainable Community. (Notes: Approved on consent on a 10-0 vote. Council Member Pool was absent.)

October 6, 2016 - Council approved Ordinance No. 20161006-056, which amended the Imagine Austin Comprehensive Plan Map and Attachments for the Colony Park Sustainable Community Initiative Master Plan. (Notes: Approved on a 9-0 vote, with Council Member Zimmerman abstaining and Council Member Troxclair absent.)

December 11, 2014 - Council approved Ordinance No. 20141211-150 amending City Code Chapter 25-2 by rezoning the 208-acre Colony Park site from single family residence-standard lot (SF-2) district zoning, family residence (SF-3) district zoning, and multi-family residence low density (MF-2) district zoning to planned unit development (PUD) district zoning. (Notes: Approved on consent on Council Member Morrison's motion, Council Member Spelman's second on a 7-0 vote.)

December 15, 2011 - Council approved Ordinance No. 20111215-014, authorizing acceptance of up to \$3,000,000 in grant funds from the Community Challenge Grant Program of the United States Department of Housing and Urban Development; and amended the Fiscal Year 2011-2012 Neighborhood Housing and Community Development Office Operating Budget. (Notes: Approved on consent on Council Member Martinez's motion, Mayor Pro Tem Cole's second on a 7-0 vote.)

For More Information:

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Additional Backup Information:

On October 18, 2018, Council authorized staff to negotiate and execute an Exclusive Negotiating Agreement (ENA) with Catellus Development Corporation (Catellus) for terms governing the development of approximately 208 acres of city-owned land, known as the Colony Park Sustainable Community.

On August 22, 2019, Council authorized \$300,000 to reimburse Catellus for certain pre-development costs related to planning, engineering, economic, and due diligence services of the Colony Park Sustainable Community, contingent on the successful execution of the ENA.

On May 12, 2020, the ENA was executed establishing two phases for negotiating the master development agreement (MDA) with Catellus. Under the executed ENA, the initial \$300,000 authorization can only be used to reimburse Catellus for the costs of their third-party consultants during the conduct of Catellus' Phase 1 obligations, not for their own staff time or related overhead costs.

As required under the ENA, Catellus delivered a Phase 1 report to the City composed of the results of the Phase 1 pre-development services and recommendations to advance the project. At this time, both parties are requesting a Phase 1 Extension for remaining pre-development services related to the continuing analysis and City deliberations regarding public financing funding structures and capital improvement projects commitments.

At the end of Phase 1 and the Phase 1 Extension, either the City or Catellus may choose not to progress to Phase 2, in which case the City would reimburse Catellus the amount authorized for Phase 1 and Phase 1 Extension costs, up to the cumulative \$700,000. The City will maintain ownership of all deliverables and documents produced by Catellus and their consultants in their efforts to advance the development of the Colony Park Sustainable Community during Phase 1 and the Phase 1 Extension.

If the City and Catellus choose to continue negotiations in Phase 2, the City would seek Council authorization for additional contingent reimbursements for Catellus' continuing costs in Phase 2. The not-to-exceed amount of those Phase 2 reimbursements has not yet been determined.

Should the City or Catellus decide not to continue MDA negotiations following Phase 2, the City will reimburse Catellus in an amount not to exceed both Phase 1 (\$300,000) and the Phase 1 Extension (\$400,000), plus any approved reimbursement amount for Phase 2. Like the terms of Phase 1, upon completion of the Phase 2 pre-development services, the City will maintain ownership of all deliverables and documents advancing the development of the Colony Park property.

If the City and Catellus agree to proceed beyond Phase 2 toward final negotiation and execution of an MDA and further budget authority for Catellus reimbursements is needed after the conclusion of Phase 2, staff will return to Council for further authority to reimburse Catellus for remaining pre-development services including but not limited to obtaining revisions to the PUD needed to complete MDA negotiations. The not-to-exceed amount of those remaining reimbursements has not yet been determined.

Should the City or Catellus decide not to execute the MDA, the City will reimburse Catellus in an amount not to exceed all Council-authorized reimbursement amounts to that point.

Should the City and Catellus agree to execute the MDA, Catellus shall not be reimbursed for any of the pre-development services provided to that point. Rather, the pre-development services will be considered as valid pre-development project expenses funded by the developer and used to calculate the developer's return on investment.

Strategic Outcome(s):

Economic Opportunity and Affordability.